

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	Case No. 4:93cr71
	§	Case No. 4:94cr46
	§	(Judge Crone)
MILLARD JERRY PARKER	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court are the requests for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 19, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Randall Blake.

On February 4, 1994, Defendant was sentenced by the Honorable Paul Brown to twenty-four (24) months' custody followed by three (3) years of supervised release for the offense of Mailing Threatening Communications in Case No. 4:93cr71. On June 30, 1995, Judge Brown sentenced Defendant to one hundred and thirty-two (132) months' custody followed by three (3) years of supervised release for the offense of Threat to Murder Federal Official in Retaliation, Extortion by Mail, and Mailing Threatening Communications in case No. 4:94cr46. On July 10, 2010, Defendant completed his period of imprisonment in both cases and began service of his supervised term.

On August 31, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision in case 4:94cr46. The petition asserted that Defendant violated a mandatory and standard condition. Violation allegation two was dismissed by the Government. The petition alleged violation of the following additional mandatory condition: the defendant shall not commit another federal, state, or local crime.

On March 7, 2012, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision in case 4:93cr71. The petition asserted that Defendant violated a mandatory and standard condition. Violation allegation two was dismissed by the Government. The petition alleged violation of the following additional mandatory condition: the defendant shall not commit another federal, state, or local crime.

The petitions allege that Defendant committed the following acts with regard to the remaining violations: (1) On August 28, 2011, Defendant was arrested by the Wichita Falls, Texas Police Department after officers observed three subjects drinking alcohol in a park and subsequently threatening a police officer. Defendant was charged with Public Intoxication and Retaliation and Assault on a Public Servant; and (2) On February 29, 2012, the Public Intoxication charge was dismissed. On February 10, 2012, Defendant was convicted of Aggravated Assault on a Public Servant (Count 1) and Retaliation (Count 2) and sentenced to twelve (12) years' imprisonment in the Texas Department of Criminal Justice-Institutional Division.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violation in each case.

RECOMMENDATION

In Case No. 4:93cr71, the Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-four (24) months to run consecutively with any sentence of imprisonment the Defendant is serving, with no supervised release to follow.

In Case No. 4:94cr46, the Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that

Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-four (24) months to run consecutively with any sentence of imprisonment the Defendant is currently serving, with no supervised release to follow.

The term of imprisonment in each federal case should run concurrent to each other, but the twenty-four (24) months of imprisonment should run consecutive to the state charge Defendant is currently serving.

It is also recommended that Defendant be housed in the Bureau of Prisons, Fort Worth Unit. Defendant should receive mental health treatment.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 21st day of March, 2012.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE